

**IN THE UNITED STATES DISTRICT COURT
IN THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

KASEY D. ALVES

PLAINTIFF

V.

CIVIL ACTION NO. 1:06cv912-LG-JMR

**HARRISON COUNTY, MISSISSIPPI, BY AND
THROUGH THE BOARD OF SUPERVISORS, ET AL.**

DEFENDANTS

**DEFENDANT, GEORGE PAYNE’S MOTION IN LIMINE NO. 3
TO BAR PLAINTIFF’S EVIDENCE AND REFERENCES TO
THE CRIMINAL PLEA AGREEMENTS, JUDGMENT AND INDICTMENT
OF CONVICTED OFFICERS IN U.S.A. v. TEEL**

COMES NOW, Defendant, Sheriff George Payne, in his official capacity, by and through his attorneys of record, Dukes, Dukes, Keating & Faneca, P.A., and moves this Honorable Court in *limine*, for an Order barring Plaintiff’s evidence and references to the Criminal Plea Agreements, Judgment and Indictment of convicted officers in *U.S.A. v. Teel*. In support thereof, Defendant states as follows:

1. Defendant respectfully moves this Court to bar Plaintiff from offering any reference, testimony or argument referencing the criminal plea agreements, judgment and indictment of convicted officers in the criminal trial of *U.S.A. v. Teel* pursuant to Fed. R. Evid. 403, which provides that although evidence may be considered relevant, it may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. *See Exhibits “11” through “25”*. Additionally, Fed. R. Evid. 404(b) strictly prohibits the use of evidence of prior wrongs to prove the character of a person in order to show action in conformity therewith.

2. Defendant, specifically moves in limine herein, to bar, restrict/redact all reference, testimony or argument regarding any unsubstantiated incident that is not specifically identified because it is the essence of unfair prejudice and should be excluded here. Lastly, the criminal indictment should be barred because it is not relevant (Fed. R. Evid. 401 and 402) to this case.

WHEREFORE PREMISES CONSIDERED Defendant, George Payne respectfully requests this Court to enter an Order granting this Motion in Limine and respectfully requests the Court to enter an Order as follows:

- A) Directing the Plaintiff through their respective counsel, and counsel individually, not to mention, refer to, interrogate concerning, voluntarily answer, or attempt to convey before the jury whether orally or through a document, at any time during these proceedings, in any manner, either directly or indirectly, the subject matters as stated above without first informing the Court and obtaining permission of the court outside the presence and hearing of the jury;
- B) Instructing the Plaintiff, through their respective counsel, and counsel individually, not to make any reference or inference to the fact that this motion has been filed, argued or ruled upon by this Court; and
- C) Instructing Plaintiff and Plaintiff's attorney to warn and caution each and every witness appearing in their phase of this litigation to strictly comply with the Court's ruling.

RESPECTFULLY SUBMITTED, this the 13th day of April, 2009.

**GEORGE PAYNE, JR., IN HIS OFFICIAL
CAPACITY ONLY AND HARRISON COUNTY
SHERIFF'S DEPARTMENT, Defendant**

DUKES, DUKES, KEATING & FANCA, P.A.

BY: /s/Cy Faneca
CY FANCA

Cy Faneca, MSB #5128
Jon S. Tiner, MSB #101733

DUKES, DUKES, KEATING AND FANCA, P.A.

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CERTIFICATE OF SERVICE

I, CY FANCA, do hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Woodrow W. Pringle, III, Esquire
2217 Pass Road
Gulfport, MS 39501
Attorney for Plaintiff

Karen Young, Esq.
Meadows Riley Law Firm
Post Office Drawer 550
Gulfport, Mississippi 39502
Counsel for Harrison County

This, the 13th day of April, 2009.

s/Cy Fanca
CY FANCA